

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

CHELSEA HENNING,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-13-28-D
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of the)	
Social Security Administration,)	
)	
Defendant.)	

ORDER

This matter comes before the Court for consideration of the Motion for Attorney Fees Under 42 U.S.C. § 406(b) [Doc. No. 23]. Plaintiff's attorney, Miles L. Mitzner, asks the Court to approve a fee award in the amount of \$15,811.25. The Acting Commissioner has made a timely response to the Motion, acknowledging the lack of a direct financial stake in the award but urging the Court to undertake an independent review and determine the reasonableness of the fee request for the services rendered.

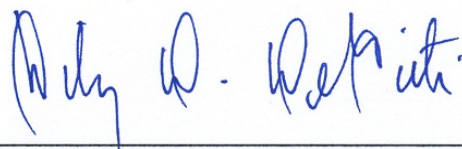
Upon consideration of the Motion in light of *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002); *Wrenn v. Astrue*, 525 F.3d 931 (10th Cir. 2008); and *McGraw v. Barnhart*, 450 F.3d 493 (10th Cir. 2006), the Court finds that the Motion should be granted. Plaintiff's attorney may recover a reasonable fee for the representation of Plaintiff up to the statutory limit of 25% of past-due benefits, provided the attorney refunds the smaller amount of the fee awarded under the Equal Access to Justice Act (EAJA). *See* Order Awarding Attorney's Fees [Doc. No. 20]. The supporting documents with the Motion, as well as the case record, reveal a total of 48 hours of legal services performed for Plaintiff's representation in this case

and before the agency. Counsel's work resulted in favorable judicial decision. *See* Judgment and Order of Remand [Doc. No. 17]. After remand, Plaintiff was determined to be entitled to benefits and awarded a past-due amount of \$63,245.00. The Motion has been filed within a reasonable amount of time, as determined by the Court. *See* Order Granting Motion for Relief Pursuant to Fed. R. Civ. P. 60(b)(6) [Doc. No. 22]. Plaintiff has a contingent-fee agreement with her attorney, which entitles the attorney to be paid 25% of past-due benefits resulting from Plaintiff's claim for the legal work done in federal court and before the agency.

Under the circumstances presented, the Court finds that the requested amount of \$15,811.25 represents a reasonable fee for the work done in view of the nature of the representation and the results achieved. This amount is not more than 25% of Plaintiff's award of past-due benefits obtained by reason of the judgment entered December 13, 2013. The Court therefore finds that the Motion of Plaintiff's attorney should be granted.

IT IS THEREFORE ORDERED that the Motion for Attorney Fees Under 42 U.S.C. § 406(b) [Doc. No. 23] is hereby GRANTED. The Court approves an award of attorney fees under 42 U.S.C. § 406(b) to Miles L. Mitzner in the amount of \$15,811.25. Mr. Mitzner shall promptly refund to Plaintiff the EAJA fee awarded in the amount of \$4,758.90.

IT IS SO ORDERED this 20th day of May, 2016.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE